

### **RESTRICTION REQUIREMENT / ELECTION OF CLAIMS**

On June 19, 2009, the Examiner called me and presented an oral restriction requirement. During that conversation Applicant verbally provisionally elected the invention of Species C, shown in FIG. 15(a)-18(b), 22(a)-26(c), and claims 1-5, 10-17, 19-25, 29-31, 34-38, and 40-41 with traverse. Applicant then withdrew claim 9, 18, 32, and 39 from consideration pending final ruling based upon Applicant's traversal. Applicant hereby affirms this provisional election with traverse as required by the Examiner in §1 of the Detailed Action Section of your Office Action..

The Present Application has four independent claims, viz., 1, 15, 29, and 37. Withdrawn claim 9 depends from independent claim 1. Withdrawn claim 18 depends from independent claim 15. Withdrawn claim 32 depends from claim 31 which, in turn, depends from claim 29. Finally, withdrawn claim 39 depends from claim 38 which, in turn, depends from independent claim 37. Therefore, all of the claims provisionally withdrawn from consideration depend from base claims that are still being examined. Should these base claims ultimately prove allowable, then the withdrawn dependent claims must also be allowable because they incorporate by reference all of the limitations of their base claims. Should these base claims ultimately prove allowable, Applicant will request rejoinder of these withdrawn claims.

### **DRAWINGS**

In §3 of the Detailed Action Section of your Office Action, the Examiner objected to the drawings under 37 CFR § 1.84(m), because solid black shading is not permitted. In §4, she also objected to the drawings under 37 CFR § 1.84(h)(1) because the exploded views in Figures 18a, 18b, and 24 should be embraced by brackets.

In response, Applicant submits herewith drawings to replace all figures in the Present Application. These corrected drawings represent Applicant's good faith effort to satisfy the requirements of 37 CFR § 1.121(d). No new matter has been added.

## **CLAIM OBJECTIONS**

In §6 of the Detailed Action Section of your Office Action, the Examiner objected to a typographical error that appeared in claim 25. Claim 25 is amended to correct this informality.

## **CLAIM REJECTIONS -- 35 U.S.C. § 112**

In §8 of the Detailed Action Section of your Office Action, the Examiner rejected claims 1-5, 9-25, 29-32, and 34-41 under 35 U.S.C. § 112, second paragraph. The Examiner stated:

*In these claims, the claim elements “means for supporting”, “means for holding”, “means for propping”, “means for mounting”, and “means for adjusting” recite a means plus function limitation that invokes 35 U.S.C 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. The written description (the specification) must clearly define each of these “means” with what structure, material, or acts perform those claimed function. For example, the specification fails to define what structure or material such as “a tightening wig nut 16” or “bolt” or “clamps” that performs the claimed function of “means for mounting”. Applicant is required to either delete the “means” plus function from the claim, or amended the specification to clearly define the term of “means” plus function. No new matter should be added.*

Only pending claims 1-14 invoke the means plus function limitation of 35 U.S.C. § 112, sixth paragraph. Therefore, the rejection of claims 15-25, 29-32, and 34-51 on this ground is improper. Applicant respectfully requests that the Examiner reverse her 35 U.S.C. § 112 rejection of all of these claims except for claims 1-5. Throughout the specification, unless functionality of a particular element of the Present Invention was inherently apparent, the Applicant disclosed the functionalities of all components of the Present Invention. Claims 1-5 recite the means for supporting, holding, and propping. The means for mounting appears in claim 10, and the means for adjusting appears in claims 13 and 14. Claims 10, 13, and 14 were not rejected by the Examiner.

However, Applicant submits herewith amendments to the specification that clearly associates elements of the Present Invention with their functions. Although claims 10, 13, and 14 were not rejected, the amendments to the specification attend to the points raised by the Examiner.

### **CLAIM REJECTIONS – 35 U.S.C. § 102**

In §10 of the Detailed Action Section of your Office Action the Examiner rejected claims 1-5, 10-17, 19, 21-22, 24-25, 29-31, 35-38, and 40-41 under 35 U.S.C. § 102(b) as being anticipated by Delacour, et.al. (US Patent No. 3,999,565). In response, claims 1, 15, 23, 32, and 34-39 have been amended, claims 10-11, 21-22, 29-31, and 40-41 have been canceled, and new claim 42 has been submitted.

The claimed invention specifically recites the invention shown in Figures 15(a) – 18(b) and 23(a) – 26(c). The Resting Device comprises a rigid mounting bracket and two rigid, straight padded members that can pivot around a pivoting mechanism, and that can be locked into position when the two members are perpendicular to each other. These amendments should overcome Delacour.

In §11 of the Detailed Action Section of your Office Action, the Examiner rejected claims 1-5, 10, 12-17, 19-22, 24-25, 29-31 and 35-38 under 35 U.S.C. 102(b) as being anticipated by Jih (US Patent No. 5,524,657).

Applicant calls your attention to the amendments made to claims 1, 15, and 37 and to newly submitted claim 42 (which replaces claim 29). The key features recited in these independent claims is that the resting device comprises a mounting bracket and two members that pivot around each other such that the member that protrudes can be lowered to rest against the shaft, and when protruding essentially perpendicular to the shaft, that protruding member is locked into position until released. Jih's device does not have these features. Therefore, the claims as amended cannot be anticipated by Jih.

Finally, in §12 of the Detailed Action Section of your Office Action, the Examiner rejected claims 1-5, 10, 12-17, 21-22, 24-25, 29-31, and 35-38 under 35 U.S.C. § 102(b) as being anticipated by Hendik (DE 10056120).

All of the figures in Hendik show a "J" shaped protrusion from a cane extending perpendicular to the cane. However, there is no pivoting mechanism, and no locking mechanism. The protrusion cannot pivot to a position where it rests against the cane along its longitudinal direction.

Furthermore, the claims of the Present Application now recite that the protruding member is straight. Hendik's protrusion is curved. This turns out to be a key difference. The Applicant has performed extensive research and

experimentation while reducing the various devices disclosed in the drawings and specification to practice. The device shown in Figures 1-9 and 11-14 of the Present Application is very similar to the device disclosed by Hendik. The Applicant selected the resting device having straight members as the preferred embodiment because it unexpectedly proved to be far more comfortable for the user than the curved device. The Applicant himself suffers from an injury that requires his using the device. The device with straight members produced unexpected results.

**APPLICANT REQUESTS ALLOWANCE OF ALL CLAIMS**

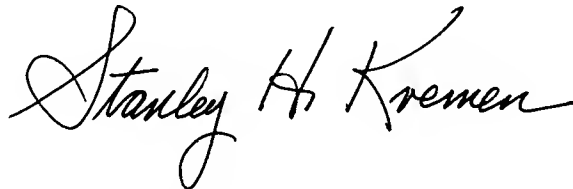
Based upon the arguments presented *supra*, and the amendments to the claims submitted to overcome the prior art cited by the Examiner, the Applicant respectfully requests that the Examiner reverse his rejections of the claims under 35 U.S.C. §§ 112 and 102. Furthermore, based upon the anticipated allowance of the independent claims in the Present Applications, Applicant respectfully requests rejoinder of the withdrawn claims as amended.

**APPLICANT'S ATTEMPT TO PRODUCE A COMPLETE RESPONSE**

By submitting this reply to your Office Action, the Applicant attempted in good faith to reply to every ground of objection and rejection raised by the Examiner. However, if for any reason, this reply proves to be deficient, the Applicant respectfully requests the courtesy of an Advisory Office Action that would permit Applicant to correct any deficiency.

Thank you for your kind attention.

Respectfully submitted,

A handwritten signature in black ink that reads "Stanley H. Kremen". The signature is written in a cursive, flowing style with a large initial 'S' and 'K'.

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